IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE N.V. RAMANA

WRIT PETITION NO : 3799 of 1995

Between:

1. Erukalla Anjaiah S/o.Mallaiah, R/o.Lingapur Village,

Ramagundam Mandal, Karimnagar District.

2. Erukalla Narasaiah S/o.Venkati, R/o.Lingapur Village,

Ramagundam Mandal, Karimnagar District.

.... PETITIONERS

AND

1. The Land Acquisition Officer & Spl. Deputy Collector,

L.A.Unit, Singareni Collieries, Co., Ltd., Godavarikhani.

2. District Collector, Karimnagar.

3. The Secretary to Govt., of A.P., Energy, Forestry,
Environment Science and Technology Dept.,
Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of *Writ of Mandamus* declaring that the action of the respondents in not including the houses of the petitioners bearing Nos.5-115/3 and
5-115/3/A and lands attached to them situated at Lingapur village, Ramagundam, Karimnagar District in the notification under Section 4(1) of the Land Acquisition Act

published on 5/2/1992 in A.P.Gazette No.7 is highly arbitrary, bad and illegal and consequently direct the respondents to include the petitioners houses bearing Nos.5-115/3 and 5-115/3/A situated at Lingapur village, Ramagundam Mandal.

For the Petitioner: MR P.PRABHAKAR REDDY, Advocate.

For the Respondents: GP FOR LAND ACQUISITION

The Court made the following:

ORDER:

By this writ petition, the petitioners seek to declare the action of the respondents in not including their houses bearing Nos.5-115/3 and 5-115/3/A situated at Lingapur village of Ramagundam Mandal, in the Draft Notification issued under Section 4(1) of the Land Acquisition Act (for short "the Act"), which was published in A.P. Gazette No.7, dated 05-02-1992, as arbitrary and illegal, and consequently to direct the respondents to include the houses in the Notification.

The petitioners claim to be owners and possessors of the houses in question, constructed by them in an extent of Ac.0-12 guntas of site in survey No.89 of Lingapur village, which was purchased under a sale deed dated 20-02-1982. They state that a Draft Notification under Section 4(1) of the Act was published in A.P. Gazette No.7, dated 05-02-1992, acquiring the entire village of Lingapur for the purpose of Open-cast Project, Medipalli for Singareni Collieries Company Limited. It is their case that the houses in question and the land attached thereto have not been notified in the Draft Notification, except the trees standing in their site. Despite several representations made by them requesting the respondents to include their houses in the Draft Notification and pay the compensation, the respondents have not taken any steps in the matter, and on the other hand, they are proceeding with award enquiry. Hence, the writ petition.

The first respondent filed counter-affidavit, stating that on the requisition of the General Manager, Singareni Collieries Company Limited, Godavaqrikhani in the year 1988, an extent of Ac.47-18 guntas of land situated in survey Nos.1 to 27, 89, 116 and 210 of Lingapur village of Ramagundam Mandal, was notified for the

purpose of Coal Mining Operations at Medipally OCP and accordingly a Draft Notification was published under Section 4(1) of the Act, in the Andhra Pradesh Gazette No.7, dated 05-02-1989. It is stated that subsequently, as the General Manager, Singareni Collieries Company Limited sent revised requisition for acquisition of only Ac.24-05 guntas of land situated in survey Nos.5, 89 and 116 of Lingapur village, amended Draft Notification was issued withdrawing the earlier proposals in respect of the remaining land already notified. It is also stated that in the joint inspection conducted by the Land Acquisition Officer and the Officials of Singareni Collieries Company Limited to finalise the claims, they observed that the huts of the petitioners in survey No.89 were found to be constructed after publication of Draft Notification under Section 4(1) of the Act, and therefore, the claim of the petitioners to include their huts in the land acquisition proceedings was not considered by the Land Acquisition Officer, but their names were notified in the Draft Notification and the Draft Declaration in respect of some trees in survey No.89 which come under the acquisition. Thus, the first respondent prays to dismiss the writ petition.

Heard the learned counsel for the petitioners.

Having regard to the facts and circumstances of the case and in view of the fact that the huts (houses) of the petitioners were found to be constructed after publication of Draft Notification under Section 4(1) of the Act, the claim of the petitioner to include the said houses in the land acquisition proceedings, cannot be granted. I see no merit in the writ petition.

The writ petition is accordingly dismissed. However, as the learned counsel for the petitioners submitted that the petitioners want to make the present claim in the references made under Section 18 of the Act, regarding the value of land and trees, which are pending before Civil Court, it is open for the petitioners to make such a claim, if they are so advised. No costs.

N.V. RAMANA, J

Date: 10-11-2004

Svv

To

1. The Land Acquisition Officer & Special Deputy
Collector, Land Acquisition Unit, Singareni Collieries,
Company Limited, Godavarikhani.

2. The District Collector, Karimnagar.

3. The Secretary to Government of Andhra Pradesh, Energy,

Forestry, Environment Science and Technology Department,
Secretariat, Hyderabad.

4. Two CCs. to Government Pleader for Land Acquisition,
High Court Buildings, A.P., Hyderabad (OUT).

5. Two C.D. copies

-